

## **REMARKS**

Claims 1-40 are pending in this application. For at least the reasons outlined in more detail herein, Applicant respectfully requests reconsideration and withdrawal of the claim rejection under 35 U.S.C. § 102(b).

### **I. Claim Rejection under 35 U.S.C. § 102(b) based on Greenhill**

In the final Office Action, claims 1-40 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by International Patent Application No. WO 00/68160 to Greenhill et al. ("Greenhill"). Final Office Action at 2 (citing to corresponding U.S. Patent No. 6,615,987 to Greenhill et al.). Claims 1, 35, and 38 are the only independent claims included in that claim rejection, and Applicant respectfully traverses the rejection of claims 1, 35, and 38 based on Greenhill because Greenhill does not disclose each element recited in those claims.

According to the M.P.E.P., "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." The Manual of Patent Examining Procedure ("M.P.E.P.") § 2131 (8th ed. rev. 7 July 2008) (quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Id. (quoting Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

Applicant respectfully submits that Greenhill does not disclose the claimed methods in as complete detail as recited in the claims. Each of claims 1, 35, and 38 is

directed to “[a] method for the treatment of kaolin particulate material . . . .” In particular, independent claim 1 recites, *inter alia*, “selecting at least one selective flocculation polymer” that “has a measured anionicity ranging from about 1% to about 12% . . . .” Independent claim 35 recites, *inter alia*, “selecting at least one selective flocculation polymer, wherein the at least one polymer has a narrow range of variability for measured anionicity and has a measured anionicity ranging from about 1% to about 12% . . . .” Finally, independent claim 38 recites, *inter alia*, “selecting at least one selective flocculation polymer, wherein said at least one selective polymer has been manufactured by a continuous process and has a measured anionicity ranging from about 1% to about 12% . . . .” Greenhill does not disclose at least this subject matter recited in independent claims 1, 35, and 38.

In the “Response to Arguments” section, the Examiner asserts that Greenhill, at col. 8, lines 47-51, “teach[es a measured anionicity] of 1% to 10% being suitable and therefore encompasses the range[] in the claimed language . . . .” Final Office Action at 3. Applicant respectfully submits that the Examiner’s assertion indicates an apparent misinterpretation of Greenhill and/or the claims of the present application. In particular, although Greenhill discloses a variety of organic and anionic polymers, none of those recited polymers corresponds to a selective flocculation polymer having “a measured anionicity ranging from about 1% to about 12%,” as recited in the independent claims of the present application.

Indeed, col. 8, lines 46-51, to which the Examiner refers in purported support of the assertion about what Greenhill discloses, actually discloses:

Because of their commercial availability high molecular weight weakly anionic synthetic polymers such as

polyacrylamides containing some replacement, e.g., from 1% to 20% by weight, often from 1% to 15% by weight, especially from 1% to 10% by weight of amide groups by carboxylic groups are suitable.

Greenhill, col. 8, ll. 46-51. Thus, the “1% to 10%” range discussed in Greenhill relates to the percentage of amide groups replaced by anionic carboxylic groups. The notion that such a range of 1% to 10% corresponds to a measured anionicity of a selected flocculation polymer is inaccurate because the percentage of anionic side groups in the polymer is not equivalent to measured anionicity.

As used in the present application, “measured anionicity” refers to the total charge density, which includes charge resulting from the copolymerization reaction (i.e., theoretical charge density), plus the charge contribution originating from hydrolysis of functional groups. (Description at 9, ¶ [029].) Thus, measured anionicity includes not only the charge density contributions from the monomers, but also includes the anionicity that results from hydrolysis of various groups that occurs during a polymerization. (Description at 16, ¶ [059].) Regardless of the percentage of amide groups replaced by a carboxylic group in a polymer, the percentage of carboxylic groups alone is not an indication of measured anionicity of that polymer, as the phrase is used in the present application. Accordingly, Greenhill does not disclose the selection of at least one selective flocculation polymer with a “measured anionicity ranging from about 1% to about 12%,” as recited in each of independent claims 1, 35, and 38.

Moreover, with respect to independent claim 35, the rejection statement fails to identify any disclosure in Greenhill that supports the rejection statement’s assertion that Greenhill discloses “selecting at least one selective flocculation polymer . . . [having] a

narrow range of variability,” as recited in claim 35. Indeed, the rejection statement is silent with respect to that recited subject matter. See Office Action at 2-3. As used in the present application, “narrow range of variability” refers to a narrow range of variability in a measured property on a batch-to-batch basis. (Description at 9, ¶ [030].) The range of variability is deemed to be narrow when the measured property over fifteen batches has a 3 sigma of +/- 10% of the measured mean. (Id.) Greenhill provides no express disclosure for selecting a polymer with a narrow range of variability, as the phrase is used in the present application. Accordingly, Greenhill does not disclose at least the element of “selecting at least one selective flocculation polymer, wherein said at least one polymer has a narrow range of variability for measured anionicity and has a measured anionicity ranging from about 1% to about 12%,” as recited in independent claim 35.

For at least the above-outlined reasons, Greenhill does not disclose all of the subject matter recited in each of independent claims 1, 35, and 38. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of those claims under § 102(b) based on Greenhill.

## **II. Conclusion**

For at least the reasons outlined above, Applicant’s independent claims 1, 35, and 38 should be allowable. Dependent claims 2-34, 36, 37, 39, and 40 depend from a corresponding one of allowable independent claims 1, 35, and 38. For at least this reason, those dependent claims should also be allowable.

In view of the foregoing remarks, Applicant respectfully requests reconsideration and reexamination of this application, withdrawal of the claim rejection, and timely allowance of all of pending claims 1-40.

Applicant respectfully submits that the final Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned attorney at (404) 653-6559.


Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Dated: November 20, 2008

By: \_\_\_\_\_



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